

SENATE CHAMBER,  
AUSTIN, TEXAS, May 18, 1870.

Senate met pursuant to adjournment—Roll called—Quorum present—Prayer by the Chaplain—Journals of Monday and Tuesday read and approved.

Senator Bowers presented a petition of James S. Patterson for land certificate due him.

Referred to Committee on Private Land Claims.

Also, a petition of the heirs of W. J. Cowan, dec'd, for relief-headright certificate.

Referred to Committee on Private Land Claims.

Also, a petition of H. Clay Eanes, for relief.

Referred to Committee on Claims and Accounts.

Senator Priest, Chairman of Committee on Judiciary, presented the following report on Senate Bill No. 59 :

COMMITTEE ROOM,  
Austin, May 18, 1870.

To the Hon. DON CAMPBELL,

President of Senate :

The Judiciary Committee, to whom was referred Senate Bill No. 59, entitled "An Act to incorporate the Sabine and Neches Mutual Insurance Company," have carefully considered the same and instruct me to report it back to the Senate and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Also, report of committee on petition of E. M. Heath :

COMMITTEE ROOM,  
Austin, May 18, 1870.

To the Hon. DON CAMPBELL,

President of Senate :

The Judiciary Committee, to whom was referred petition of E. M. Heath for special relief as deputy assessor and collector of taxes, have carefully considered the same and believe the petitioner entitled to the relief prayed for, we therefore report the accompanying bill and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Message from the House by the chief clerk, asking concurrence in House Bill No. 16, entitled "An Act to incorporate the Magnolia Grove Association of Galveston, Texas."

Also, House Bill No. 28, entitled "An Act to incorporate the Allemania Association of La Grange, Texas."

Laid over under the rules.

Also, report of committee on Senate bill No. 65 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 18, 1870.

To the HON. DON CAMPBELL,

President of the Senate :

The Judiciary Committee, to whom was referred Senate bill No. 65, entitled "An Act to incorporate the Austin City Ice Company," have had the same under consideration, and instruct me to report it back to the Senate and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Report of committee on Senate bill No. 66 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 18, 1870.

To the HON. DON CAMPBELL,

President of the Senate :

The Judiciary Committee, to whom was referred Senate bill No. 66, entitled "An Act to exempt certain property therein named from forced sale," have had the same under consideration, and instruct me to report the accompanying substitute for said bill and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Report of committee on Senate bill No. 62 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 17, 1870.

To the HON. DON CAMPBELL,

President of the Senate :

The Judiciary Committee, to whom was referred Senate bill No. 62, entitled "An Act to amend articles 379 and 380 of the Code of Criminal Procedure," have had the same under consideration, and instruct me to report it back with accompanying amendment and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Report of committee on Senate bill No. 50 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 17, 1870.

To the HON. DON CAMPBELL,

President of the Senate :

Your Committee on Judiciary, to whom was referred Senate bill No. 50, entitled "An Act to incorporate the Young Men's Real Estate and Building Association of the City of Austin," have carefully considered the same, and instruct me to report it back to the Senate and recommend its passage.

M. PRIEST,  
Chairman of Committee.

Report of committee on Senate bill No. 24 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 17, 1870.

To the HON. DON CAMPBELL,

President of Senate :

Your Committee on Judiciary, to whom was referred Senate bill No. 24, entitled "An Act to make valid the official acts of certain surveyors," have duly considered the same and instruct me to report it back to the Senate with accompanying amendment, and recommend its passage.

M. PRIEST,

Chairman of Committee.

Report of committee on memorial of the citizens of LaGrange :

JUDICIARY COMMITTEE ROOM,  
Austin, May 18, 1870.

To the HON. DON CAMPBELL,

President of Senate :

The Judiciary Committee, to whom was referred memorial of the citizens of LaGrange, asking for an election of town officers, have instructed me to report the accompanying general bill, authorizing the incorporated towns and cities of the State of Texas to elect municipal officers, and recommend its passage.

M. PRIEST,

Chairman of Committee.

Report of committee on Senate bill No. 63 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 17, 1870.

To the HON. DON CAMPBELL,

President of Senate :

Your Committee on Judiciary, to whom was referred Senate bill No. 63, entitled "An Act concerning judgment and mortgage liens upon real estate," have carefully considered the same and instruct me to report it back to the Senate, and recommend that the bill do not pass.

M. PRIEST,

Chairman of Committee.

Report of committee on Senate bill No. 20 :

JUDICIARY COMMITTEE ROOM,  
Austin, May 17, 1870.

To the HON. DON CAMPBELL,

President of Senate :

The Judiciary Committee, to whom was referred Senate bill No. 20, entitled "An Act to suppress the practice of carrying fire arms and other deadly weapons about the person," have had the same un-

der consideration, and instruct me to report the accompanying substitute for said bill and recommend its passage.

M. PRIEST,

Chairman of Committee.

Report of committee on Senate bill No. 60:

JUDICIARY COMMITTEE ROOM,

Austin, May 18, 1870.

To the HON. DON CAMPBELL,

President of Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 60, entitled "An act to incorporate the City of Sabine Pass, have had the same under consideration, and instruct me to report it back to the Senate, and recommend its passage.

M. PRIEST,

Chairman Committee.

Senator Cole presented the following minority report from the Committee on Militia. Read.

Senator Pickett moved that the report be received, spread upon the journals, and that two hundred copies of majority and minority reports be printed for the use of the Senate. Carried.

AUSTIN, TEXAS, May —, 1870.

To the Hon. DON CAMPBELL,

President of the Senate:

The undersigned, members of the Committee on Militia, cannot agree with the majority of the committee, who have reported favorably on Senate bill No. 33, entitled "An act to provide for the enrollment of the militia, the organization and discipline of the State guard, and for the public defense." We very much regret that differences of opinion should exist as to the power of the Legislature to pass such a law as is contemplated by the bill reported by the majority of the committee, or as to the policy of such a law.

We regret still more that the action of the majority of the committee has been such as to require from us a dissent therefrom. But, believing, as we do, that the bill is clearly in violation of the Constitution of the United States and of the State of Texas, and that if passed into a law would be ruinous in policy, we feel constrained to submit this minority report, together with our reasons for dissenting from the conclusions arrived at by the majority of the committee. We are free to admit that "a well regulated militia is necessary to the security of a free State;" and if the bill under consideration contemplated no more than this, we would cheerfully favor its passage into a law, if not in violation of the constitution. But it goes further, and, under the mask of organizing the militia, provides for calling into active service, in time of peace, a large armed military force in the nature

of a standing army, whose number is only limited by the will of the Executive, he having power also to determine what particular persons are to be enrolled in this force, and to "reject any person offering himself for enrollment in the same." This army is placed at the unlimited control of the Governor, and he is authorized to order the whole or any part of it into active service "in time of war, rebellion, insurrection, invasion, resistance of civil process, breach of the peace or imminent danger thereof."

It is also made "the duty of the Governor, whenever in his opinion the enforcement of the laws of this State is obstructed within any county or counties by combination of lawless men too strong for the control of the civil authorities, to declare such county or counties under martial law, and to suspend the laws therein.

"In this event, the Governor, by his proclamation, shall designate the county or counties in which the laws are to be so suspended, and the Governor shall call out such part of the State guard or reserved militia or State police, as may in his opinion be necessary to the suppression of disorder. The expense of maintaining the State guard or reserve militia, called into active service under this section, may, in whole or in part, in the discretion of the Governor, be assessed upon the people of the county or counties where the laws are suspended. The Governor may provide, and he may also prescribe the necessary regulations therefor, and may designate the officer or officers who shall make such assessment and collection thereof."

The bill further provides that "whenever the laws may be suspended, as provided for in the last preceding section, it shall be the duty of the Governor to provide for the trial and punishment of offenders, and the Governor shall make all details of officers for this purpose, and prescribe all necessary regulations for the formation and government of courts-martial and military commissions established for this purpose."

From these extracts, taken from the bill under consideration, it will be seen that the Executive is authorized at any time, when he has reason to believe that "a breach of the peace" has been made in any county of this State, or that there is "imminent danger" of a breach of the peace, to suspend all the civil laws in such county, and to declare martial law therein; to station in such county or counties as many troops of his own selection, and officered by himself, as in his opinion may be necessary for the suppression of disorder, and to tax the citizens of the particular county where the troops are so sent, with the expense of the same; to suspend the functions of all civil officers, and to cause detailed military officers to perform the duties that should be performed by the regular constituted civil authorities; to cause arrests and imprisonments to be made

without warrant or known cause; to suspend the writ of *habeas corpus*; to try, condemn and punish supposed offenders by courts-martial and military commissions, thus depriving the citizens of "the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed;" to hold a person, in no way connected with the army or navy, to answer criminal charges, otherwise than on indictment or information; to close the courts of the country, and thus deprive the person who has suffered injury to his "lands, goods, person, or reputation," of all remedy by due course of law; to disregard and abrogate Section XII of the Bill of Rights, which provides that "the right of trial by jury shall remain inviolate;" to deprive citizens of this State of life, liberty and property, otherwise than by due course of the law of the land; to compel the citizens of the county in which these troops may be sent to pay the expenses of the same, furnish rations for the men and forage for their horses, without compensation--thus taking private property for "public use without just compensation being made." In short, the bill favorably reported by the majority of the committee, seeks to create an army, and make the civil authority subordinate and subservient thereto, with the Executive of the State as commander-in-chief of the army thus provided for.

We believe these powers have not been delegated by the people to the Legislature, but have been carefully reserved and excepted out of the general powers of government, and should ever remain inviolate. We believe that in the administration of the government, the Executive, the Legislature, and every officer and citizen, is bound by, and entitled to, the benefits of the following liberal guarantees:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation.

"In all criminal prosecutions, the accused shall have a speedy public trial by an impartial jury. No person shall be holden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offenses against the laws regulating the militia.

"All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law.

"The right of trial by jury shall remain inviolate.

"No person's property shall be taken or applied to public use without just compensation being made, unless by the consent of such person.

"No citizen of this State shall be deprived of life, liberty, property or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

"No power of suspending laws in the State shall be exercised, except by the Legislature, or its authority.

"The privileges of the writ of habeas corpus shall not be suspended, except by act of the Legislature, in case of rebellion or invasion, when the public safety may require it.

"The military shall, at all times, be subordinate to the civil authority."

These solemn constitutional guarantees were purchased with the blood and treasury of centuries—they have been extorted at the expense of the lives of patriots and of tyrants, and we believe they should now be respected, that they should bind the conscience and govern, limit and control the actions of all men, governors and governed, magistrates and people, at all times and under all circumstances; and that any wilful disregard of these organic laws would be alike dangerous to the stability of the Government, the safety of the State, and the liberties of the people.

These guarantees should protect the people against all usurpations; against all exercise of martial law or military power over the citizens in no way connected with the army or navy; against all arrests of judgments: against any punishment or exile of citizens, except by lawful warrant, indictment or information, of the properly constituted civil judicial tribunals of the land; and against all and every usurpation of the civil authority by military power.

But the bill under consideration, if passed into a law and executed, would offend against every constitutional guarantee herein set forth. Every such violation but tends to the subversion of our Government and the establishment of that anarchy which has no solution but in perfect despotism. While it is the duty of every one to see that the laws are strictly enforced, and vigilantly to guard the great citadel of liberty, yet should we thus sacrifice or trample under foot these cardinal principles of constitutional liberty! The maintenance of the Government by such means would be the triumph of slaves, not freemen. We believe this sacrifice unnecessary.

Full and ample authority is given by the bill to the Governor to suspend all laws, including the writ of *habeas corpus*, and this too in direct violation of the Federal and State Constitution. It is provided in the Federal Constitution that "the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion, the public safety may require it." And the State Constitution adopts the precise phraseology, and gives the power exclusively to the Legislature in such case. In other words, it is

only when invasion or rebellion has assumed such proportions as that the public safety may demand the suspension of the writ, that the Legislature may act.

It requires the highest act of sovereign authority to deprive the people of the inestimable privileges of this writ, and the Legislature is denied the power to delegate its authority to another.

The citizen is robbed of all protection to life or liberty by the removal of the guarantees of this writ, and thereby outlawed as unworthy of all civil rights.

The British people have, since the days of King John, looked to this Magna Charta as the palladium of their liberties—the distinguishing feature between free and despotic government, and it would to-day cost the Queen of Great Britain her crown and her head, should she arbitrarily attempt to suspend the privileges of this writ. Her parliament would not be long in returning a denial to any proposition investing her with the power here sought to be conferred on a governor of a free State.

It is only in cases of armed invasion or rebellion, when the civil authority is powerless to maintain its ascendancy, that the privileges of this writ are suspended, and in such an event under our Constitution, the Legislature is made the sole judge of the necessity of the case. An actual or threatened breach of the peace, as provided in the bill, cannot be tortured into an invasion or rebellion in which the public safety may require a suspension of this writ.

It may be questioned whether or not the Constitution of this State has delegated to the Legislature the authority to provide by law for organizing and disciplining the militia. The usual provisions on this subject found in most of the State constitutions and heretofore embraced in the organic law of this State, is wanting in our constitution. The power given to the Governor to call forth the militia contemplates such precedent grant of authority, and it may well be doubted whether the Legislature can act until an amendment of the constitution is obtained. Until recently the State has been restrained from the establishment of a militia, and the right denied as an inherent power of government in the people.

The Constitution of the United States provides that Congress may have power “to provide for organizing, arming, disciplining and calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasion,” with power thus delegated to the Federal Government its whole authority would be exercised in the organization of a military force within the State, should it become necessary for the suppression of rebellion or repelling invasion, and we may well ask whether it is not such contingency only that any grant of authority could be claimed as an inherent power justifying the establishment of a military organization by the Legislature.



We have not been favored with the arguments in support of the report of the majority of the committee, but understand it is urged by the friends of the bill that as section twenty of article one of the State Constitution provides that "no power of suspending laws in the State shall be exercised except by the Legislature or its authority," therefore, by implication, this power is conferred on the Legislature, and that it is authorized to delegate this power to others.

It is not denied that the Legislature can make and also unmake laws, so long as the limits assigned by the constitution to the exercise of this power are not transcended, that the statutes of the State are under the control and at the disposal of the Legislature, and they may either change, modify, abolish or suspend them for a given time, or the Legislature may authorize some particular person or agent to suspend the operation of any particular statute for a given time and for a fixed and known purpose. But we cannot concur in the idea that this authority to suspend a law of the State can authorize the passage of a general law delegating to a co-ordinate department of the government the right and authority at pleasure to suspend and render nugatory all the civil laws of the State, whether organic or statutory. The Legislature alone are authorized to determine whether the laws are to be suspended or to remain in force. The bill under consideration would make the enforcement or suspension of the laws dependent alone on the will of the Executive.

If it were proposed to delegate this discretionary power to the judiciary, or to the Supreme Court, would any one be found brave enough to attempt a defense of the constitutionality of such a proposition? If the judiciary cannot be vested with this power, can the Executive?

But the power of suspending statutory laws cannot certainly be construed into authority to suspend, or to authorize the Governor to suspend, the operation of the constitution. Section twelve of the Bill of Rights declares that "the right of trial by jury shall remain inviolate," and section eighteen declares "the military shall at all times be subordinate to the civil authority," while section twenty-three, as if to preclude the possibility of any doubt on this subject, declares that "to guard against transgression of the high powers herein delegated, we declare that everything in this Bill of Rights is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto \* \* \* shall be void." The bill under consideration is contrary thereto, and proposes in clear and unmistakable terms to violate these provisions of the Bill of Rights, and we submit that such a law would

be void. If the Legislature can suspend, or authorize the Governor to suspend, any portion of the constitution, they can suspend, or authorize him to suspend the entire instrument. If they can suspend it, or any portion of it, or authorize the Governor to do so, for one day or for one hour, they can cause it to be suspended for all time to come. If they can do this by a law, in terms, suspending it, they can do so by implication whenever any law may be passed conflicting with it. To these startling conclusions we must come, if the positions assumed by the majority of the committee are correct.

We are unwilling to silently acquiesce in these violations. Hence we dissent from and protest against the action of the majority of the committee, in recommending the passage of a bill containing so many obnoxious and dangerous provisions, and we respectfully ask that these reasons for dissent be entered on the journals.

But if the bill under consideration did not contain these obnoxious and unconstitutional provisions, we suggest that it would be bad policy to pass such a law as is contemplated by it, for the following reasons :

First. No necessity exists for it. This Legislature has not been furnished with any evidence that war, rebellion or insurrection exists in any portion of the State, or that invasions are being made into our territory by any foreign State or power, or that the execution of the laws by the civil authorities are successfully resisted. But if such emergencies should hereafter arise, rendering it necessary to call for the militia to execute the laws, to suppress insurrection and repel invasion, we respectfully suggest that the Governor is fully authorized, by article seven of the State Constitution, to avail himself of the entire militia of the State, for this purpose; and to call forth all the arms-bearing citizens for active service. We cannot, by any law we can pass, increase the number or efficiency of this force or enlarge his powers over it. Should the executive find this force insufficient to meet any further necessity, then we suggest the national troops now within the State would readily be placed at his disposal, if proper application be made therefor. And if still the force should be insufficient, we think the executive could confidently and safely appeal to the General Government for all necessary assistance in such an emergency.

Second. Doubtless the law is occasionally violated in different portions of the State, and there are, probably, many instances of "breaches of the peace," as well, also, as frequent "imminent danger thereof." It would be extraordinary if such were not the case. No government, State or municipal, has ever existed without these occasional offenses being committed. But we respectfully submit that a

vigorous execution of the law, with all necessary assistance furnished the legally constituted agents for enforcing the same, and punishment of offenders under its forms and authority would be more likely to vindicate the majesty of the law and command respect for, and obedience to it and its agents, than to place it in the power of any and every wicked person to cause the law to be suspended, and the officers thereof silenced in their work of administering it, by causing a breach of the peace, or causing the impression to be made that "imminent danger" thereof exists. Such a course could not fail to bring into contempt, and paralyze, not only the law but its administrators. We prefer to make the law a terror to evil-doers, rather than cause evil-doers to be made a terror to the law. Instead of providing for a suspension of the law whenever it is violated, we should provide every necessary assistance for the civil officers charged with the duty of executing and maintaining it, and to insure that every citizen and resident shall receive the proper punishment for every infraction thereof. This assistance should be placed at the disposal of and subordinate to the legally constituted civil authorities. The bill under consideration would place the civil authorities at the disposal of, and subordinate to the contemplated assistance.

Third. The unanimity with which the people of Texas voted to ratify and adopt the constitution, thus complying promptly with all the requirements of the reconstruction laws, and ratifying the Thirteenth, Fourteenth and Fifteenth amendments to the Constitution of the United States, shows how anxious they were to terminate the military power then governing the country, and to return to civil government, republican in form, and based on the great cardinal principle underlying all free governments—the supremacy of the civil authority over the military. Nine years of experience had demonstrated to our people that although war and military power may often be necessary to achieve liberty, yet this priceless but sensitive boon cannot be preserved and successfully maintained through these instrumentalities—that all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit.

The bill under consideration would entail upon the country a military despotism distasteful in all its features, and would clothe the executive with the powers of supreme dictation. It would debase the civil authority to the surveillance of a local State military power. We believe the will of the people so generally expressed should be respected. And that such an important change in the form of our State government should not be made without some expressed authority from them. If we are to return to military rule,

an important question arises, whether it would not be wise and more in accordance with the inclinations of our people to invoke the aid and protection of the General Government to carry into operation such a system than to entrust it to the management of an inexperienced and irresponsible local organization from whose acts and decisions there can be no appeal.

Entertaining these views as to the power of the Legislature to pass such a law, and as to the policy of it, if we had the authority, we respectfully dissent from the conclusions of the majority of the committee, and recommend that the bill do not pass.

AMOS CLARK,  
G. R. SHANNON.

## REPORT OF COMMITTEE ON CLAIMS AND ACCOUNTS.

COMMITTEE ROOM,  
Austin, Texas, May 10, 1870.

Hon. DONALD CAMPBELL,  
President State Senate:

SIR: Your Committee on Claims and Accounts, to whom was referred the petition of A. H. Cook for relief, respectfully report the following facts: The Legislature of 1866 authorized the Governor (Throckmorton,) to purchase a sufficient number of Sayles' Treaties for certain officers mentioned in the act, and appropriated (\$5000) five thousand dollars for this purpose; that one thousand copies were purchased at (\$5) five dollars per copy, and this exhausted the appropriation. This number was not sufficient for the purpose named by five hundred copies, for which said Governor contracted, and the books are now tendered and ready for delivery, and no appropriation made to pay for them. Petitioner asks an appropriation of (2,500) twenty-five hundred dollars and interest, to which your committee does not assent; but agrees to take the books at (\$5) five dollars per copy, and for this appropriation the accompanying bill is presented, and the passage thereof recommended.

HENRY RAWSON,  
Chairman.

## REPORT OF COMMITTEE ON CLAIMS AND ACCOUNTS.

SENATE CHAMBER,  
Austin, May 16, 1870.

Hon. DON CAMPBELL,  
President State Senate:

SIR: Your committee, to whom was referred the petition of J.

H. Hallonquist, asking for payment for services rendered the State as engineer, have had the same under consideration and beg leave to make the following report :

By reference to the State Department we find that his appointment is dated January 3, 1867, and his removal dated August 30, 1867, being eight months, at the rate of \$2,000 per annum ; therefore your committee report back accompanying bill and recommend its passage.

Respectfully,

HENRY RAWSON,  
Chairman of Committee.

## REPORT OF COMMITTEE ON ENROLLED BILLS.

SENATE CHAMBER,  
Austin, May 18, 1870

To Hon. DON CAMPBELL,

President of Senate :

The Committee on Enrolled Bills respectfully report that Senate Bill No. 52, entitled "An Act making an appropriation for the mileage and per diem pay of the members and the per diem pay of the officers and employes of the 12th Legislature of the State of Texas," was by them presented to his Excellency, E. J. Davis, Governor of Texas, on the 13th day of May, A. D., 1870.

B. J. PRIDGEN,

Chairman.

Senator Bowers introduced a bill entitled "An Act requiring the presiding justices in each county in the State to receive, disburse and account for all the funds belonging to their respective counties."

Read first time and referred to Committee on Judiciary.

Senator Ruby introduced a bill entitled "An Act relating to insurance companies."

Read first time and referred to Committee on Judiciary.

Senator Fountain offered the following resolution :

*Resolved*, That the Committee on Indian Affairs and Frontier Protection be authorized to appoint a sub-committee to inquire into the manner in which the Indian reservation, known as the Wichita Reserve is conducted ; that said sub-committee shall have power to call for persons and papers, and to administer oaths, and, if considered necessary, shall be authorized to proceed in person to the vicinity of said reservation for the purpose of taking evidence.

Adopted.

Senator Flanagan introduced a bill entitled "An Act to Carry into Effect the Second Section of an act entitled An Act to Amend

the First Section of an act entitled, An Act to Amend the First and Eleventh Sections of an act to authorize the sale of the public domain, approved February 11, 1858, approved January 1, 1862; and to amend the second section of an act, entitled An Act to Authorize the Sale of the Public Domain, approved February 11, 1858, approved March 4, 1863."

Read first time, and referred to Committee on Public Lands.

Senator Baker introduced a bill entitled "An Act for the Relief of the Houston and Texas Central Railroad Company.

Read first time.

Referred to Committee on Internal Improvements.

Also, a bill entitled "An Act to Authorize the Consolidation of the Indianola Railroad Company with the San Antonio and Mexican Gulf Railroad Company, under the name and style of 'The Gulf, Western Texas and Pacific Railroad Company.'"

Read first time, and referred to the Committee on Internal Improvements.

Senator Pickett introduced a bill entitled "An Act to incorporate the Pine Island Bayou Bridge Company."

Read first time, and referred to Committee on Roads, Bridges and Ferries.

Senator Pickett introduced a bill entitled "An Act for the relief of the heirs of Benjamin Franklin.

Read first time, and referred to Committee on Private Land Claims.

Senator Pickett offered the following resolution:

*Resolved*, That the standing rules of the Senate be amended as follow: "In rule number thirty-two strike out the words "read by its caption and." In rule number thirty-three, strike out the words "committed or."

Senator Bowers moved to amend by adding "to committee" after the word "referred," in rule number thirty-two.

Amendment accepted.

Senator Flanagan moved a suspension of rules.

Rules suspended.

Resolution as amended adopted.

Senator Priest introduced a bill entitled "An Act to Amend the Fifth Section of an 'Act to Regulate Railroad Companies,' " etc., approved December 19, 1857.

Read first time, and referred to Committee on Judiciary.

Also, a bill entitled "An Act to Amend Article Six Hundred and Forty-eight of an Act entitled 'An Act to Adopt and Establish a Code of Criminal Procedure,' approved August 26, 1856."

Read first time, and referred to Committee on Judiciary.

Also, a bill entitled "An Act in Relation to Fees of Officers."

Read first time, and referred to Committee on Judiciary.

Senator Latimer offered the following resolution:

WHEREAS, the limits of the Penitentiary are insufficient to meet the demands of the State, and it is deemed inexpedient to increase the number of convicts beyond the present capacity of the buildings at Huntsville; and whereas, the expense of removing prisoners from the extreme eastern and western portions of the State to the Penitentiary as now established, would go far to defray the expense of constructing penitentiaries accessible to such sections, and from the increase of population a necessity arises for their establishment;

*Be it therefore resolved*, That the Committee on Penitentiary be instructed to inquire into the propriety of building a penitentiary at some place east of the Trinity river and north of the thirty-second degree of latitude, and one at some point west of the Colorado river, at or near the town of San Marcos, and report by bill or otherwise.

Adopted.

Senator Hall offered the following resolution:

*Resolved*, That the committee to examine Comptroller's and Treasurer's accounts and the Committee on Penitentiary be allowed one clerk for the two committees at a salary of five dollars per diem.

Adopted.

On motion of Senator Bowers, Senate adjourned till 10 o'clock, A. M., to-morrow.